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7  
8 **BEFORE THE**  
**VETERINARY MEDICAL BOARD**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 Case No. D1 2006 19

11 In the Matter of the Accusation and Petition to  
Revoke Probation Against:

**ACCUSATION AND FIRST AMENDED  
PETITION TO REVOKE PROBATION**

12 **JAMES C. COGHLAN, D.V.M.**  
17th Street Animal Hospital  
13 1745 West 17th Street, #C  
Santa Ana, CA 92706

14 **Veterinarian License No. VET 9742**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Annemarie Del Mugnaio (Complainant) brings this Accusation and First Amended  
20 Petition to Revoke Probation solely in her official capacity as the Executive Officer of the  
21 Veterinary Medical Board, Department of Consumer Affairs.

22 2. On or about September 1, 1987, the Veterinary Medical Board issued Veterinarian  
23 License Number VET 9742 to James C. Coghlan (Respondent). The Veterinarian License was in  
24 full force and effect at all times relevant to the charges brought herein and will expire on June 30,  
25 2016, unless renewed.

26 3. In a disciplinary action entitled "*In the Matter of the Amended Accusation Against*  
27 *James C. Coghlan*," Case No. AV 2006 19, the Veterinary Medical Board issued a Decision and  
28 Order effective May 6, 2011, in which Respondent's Veterinarian License was revoked.

1 However, the revocation was stayed and Respondent's Veterinarian License was placed on  
2 probation for four (4) years with certain terms and conditions. A copy of that Decision and Order  
3 is attached as Exhibit A and is incorporated by reference.

#### 4 JURISDICTIONAL AND STATUTORY PROVISIONS

5 4. This Accusation and First Amended Petition to Revoke Probation is brought before  
6 the Veterinary Medical Board (Board), Department of Consumer Affairs, under the authority of  
7 the following laws. All section references are to the Business and Professions Code (Code)  
8 unless otherwise indicated.

9 5. Section 118, subdivision (b) of the Code provides that the suspension, expiration,  
10 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
11 disciplinary action during the period within which the license may be renewed, restored, reissued  
12 or reinstated. Under Code section 4843.5, an expired license may be renewed at any time within  
13 five years after its expiration on the filing of application for renewal on a form prescribed by the  
14 board, and payment of the renewal fee in effect on the last regular renewal date.

15 6. Section 4875 of the Code provides, in pertinent part, that the Board may revoke or  
16 suspend the license of any person to practice veterinary medicine, or any branch thereof, in this  
17 state for any causes provided in Article 4 of the Veterinary Medicine Practice Act (Bus. & Prof.  
18 Code Sections 4800 *et seq.*). In addition, the Board has the authority to assess a fine not in excess  
19 of \$5,000 against a licensee for any of the causes specified in section 4883 of the Code. Such fine  
20 may be assessed in lieu of, or in addition to, a suspension or revocation.

21 7. Section 4876 of the Code provides, in pertinent part, that in addition to its authority to  
22 suspend or revoke a license or registration, or assess a fine on a person licensed or registered  
23 under this chapter, the board shall have the authority to place a licensee or registrant on probation.

24 8. Section 4883 of the Code states:

25 The board may deny, revoke, or suspend a license or registration or assess a  
26 fine as provided in Section 4875 for any of the following:

27 ....

1 (o) Violation, or the assisting or abetting violation, of any regulations adopted  
2 by the board pursuant to this chapter.

## 3 REGULATORY PROVISIONS

4 9. California Code of Regulations, title 16, section 2032.1, states:

5 (a) It is unprofessional conduct for a veterinarian to administer, prescribe,  
6 dispense or furnish a drug, medicine, appliance, or treatment of whatever nature for  
7 the prevention, cure, or relief of a wound, fracture or bodily injury or disease of an  
8 animal without having first established a veterinarian-client-patient relationship with  
9 the animal patient or patients and the client, except where the patient is a wild  
10 animal or the owner is unknown.

11 (b) A veterinarian-client-patient relationship shall be established by the  
12 following:

13 (1) The client has authorized the veterinarian to assume responsibility  
14 for making medical judgments regarding the health of the animal, including the  
15 need for medical treatment,

16 (2) The veterinarian has sufficient knowledge of the animal(s) to initiate  
17 at least a general or preliminary diagnosis of the medical condition of the  
18 animal(s). This means that the veterinarian is personally acquainted with the  
19 care of the animal(s) by virtue of an examination of the animal or by medically  
20 appropriate and timely visits to the premises where the animals are kept, and

21 (3) The veterinarian has assumed responsibility for making medical  
22 judgments regarding the health of the animal and has communicated with the  
23 client a course of treatment appropriate to the circumstance.

24 (c) A drug shall not be prescribed for a duration inconsistent with the medical  
25 condition of the animal(s) or type of drug prescribed. The veterinarian shall not  
26 prescribe a drug for a duration longer than one year from the date the veterinarian  
27 examined the animal(s) and prescribed the drug.

28 (d) As used herein, "drug" shall mean any controlled substance, as defined by  
Section 4021 of Business and Professions code, and any dangerous drug, as defined  
by Section 4022 of Business and Professions code.

10. California Code of Regulations, title 16, section 2032.3, states:

(a) Every veterinarian performing any act requiring a license pursuant to the  
provisions of Chapter 11, Division 2, of the code, upon any animal or group of  
animals shall prepare a legible, written or computer generated record concerning the  
animal or animals which shall contain the following information:

(1) Name or initials of the person responsible for entries.

(2) Name, address and phone number of the client.

(3) Name or identity of the animal, herd or flock.

(4) Except for herds or flocks, age, sex, breed, species, and color of  
the animal.

1 (5) Dates (beginning and ending) of custody of the animal, if  
applicable.

2 (6) A history or pertinent information as it pertains to each animal,  
3 herd, or flock's medical status.

4 (7) Data, including that obtained by instrumentation, from the  
physical examination.

5 (8) Treatment and intended treatment plan, including medications,  
6 dosages, route of administration, and frequency of use.

7 (9) Records for surgical procedures shall include a description of the  
procedure, the name of the surgeon, the type of sedative/anesthetic agents  
8 used, their route of administration, and their strength if available in more  
than one strength.

9 (10) Diagnosis or assessment prior to performing a treatment or  
10 procedure.

11 (11) If relevant, a prognosis of the animal's condition.

12 (12) All medications and treatments prescribed and dispensed,  
including strength, dosage, route of administration, quantity, and frequency  
13 of use.

14 (13) Daily progress, if relevant, and disposition of the case.

15 (b) Records shall be maintained for a minimum of three (3) years after the  
animal's last visit. A summary of an animal's medical records shall be made  
16 available to the client within five (5) days or sooner, depending if the animal is in  
critical condition, upon his or her request. The summary shall include:

17 (1) Name and address of client and animal.

18 (2) Age, sex, breed, species, and color of the animal.

19 (3) A history or pertinent information as it pertains to each animal's  
20 medical status.

21 (4) Data, including that obtained by instrumentation, from the  
physical examination.

22 (5) Treatment and intended treatment plan, including medications,  
23 their dosage and frequency of use.

24 (6) All medications and treatments prescribed and dispensed,  
including strength, dosage, route of administration, quantity, and frequency  
25 of use.

26 (7) Daily progress, if relevant, and disposition of the case.

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1 (c)(1) Radiographs and digital images are the property of the veterinary  
2 facility that originally ordered them to be prepared. Radiographs or digital images  
3 shall be released to another veterinarian upon the request of another veterinarian who  
4 has the authorization of the client. Radiographs shall be returned to the veterinary  
5 facility which originally ordered them to be prepared within a reasonable time upon  
6 request. Radiographs originating at an emergency hospital shall become the property  
7 of the next attending veterinary facility upon receipt of said radiograph(s). Transfer of  
8 radiographs shall be documented in the medical record.

9 (2) Radiographs and digital images, except for intraoral radiographs,  
10 shall have a permanent identification legibly exposed in the radiograph or  
11 attached to the digital file, which shall include the following:

12 (A) The hospital or clinic name and/or the veterinarian's  
13 name,

14 (B) Client identification,

15 (C) Patient identification, and

16 (D) The date the radiograph was taken.

17 (3) Non-digital intraoral radiographs shall be inserted into sleeve  
18 containers and include information in subdivision (c)(2)(A)-(D). Digital  
19 images shall have identification criteria listed in subdivision (c)(2)(A)-(D)  
20 attached to the digital file.

21 (d) Laboratory data is the property of the veterinary facility which originally  
22 ordered it to be prepared, and a copy shall be released upon the request of the client.

23 (e) The client shall be provided with a legible copy of the medical record  
24 when the patient is released following emergency clinic service. The minimum  
25 information included in the medical record shall consist of the following:

26 (1) Physical examination findings

27 (2) Dosages and time of administration of medications

28 (3) Copies of diagnostic data or procedures

(4) All radiographs and digital images, for which the facility shall  
obtain a signed release when transferred

(5) Surgical summary

(6) Tentative diagnosis and prognosis, if known

(7) Any follow-up instructions.

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## FACTUAL ALLEGATIONS

11. On or about the morning of March 14, 2012, Cameron V.'s grandmother brought Cameron's female Maltipoos dog ("Luna") to Respondent's clinic for an ovariohysterectomy procedure. Luna had previously been a patient at Respondent's clinic. Cameron's grandmother told employees at the hospital that they thought the dog might be pregnant. Cameron wanted to cancel the procedure if Luna was pregnant. Cameron's grandmother provided telephone numbers where Cameron could be reached. It was agreed that Cameron would call the clinic at noon to find out if Luna was pregnant. At 11:00 a.m., the clinic contacted Cameron by telephone stating that the ovariohysterectomy had already taken place. The clinic employees stated that they were unable to contact Cameron at the telephone numbers provided by Cameron's grandmother prior to the surgery. When Cameron's husband came to pick up Luna at the clinic later that day, the clinic initially refused to give him the dog because ownership of Luna was in dispute.

12. A veterinarian was directed by the Board to conduct a review of Luna's medical files and provide an opinion as to whether Respondent violated statutes and/or regulations adopted by the Board. The Board consultant found the following violations:

a. On May 6, 2011, Luna was first seen by Respondent. The treatment record is illegible and no doctor initials are present to determine if an appropriate veterinarian-client-patient relationship existed prior to administering vaccinations. There were no physical examination findings, and no diagnosis noted in the treatment record.

b. On January 25, 2012, Luna was seen by Respondent for a skin condition. There were no physical examination findings, no history, and no diagnosis noted in the treatment record.

c. On March 14, 2012, when Luna was presented for the ovariohysterectomy procedure, there were no physical examination findings, and no diagnosis noted in the treatment record. The record did not state the anesthetic protocol, what drugs were administered, the drug dosages, or monitoring. The owners were not provided post-operative care instructions.

13. Respondent failed to comply with the Decision and Order "*In the Matter of the Amended Accusation Against James C. Coghlan*," Case No. AV 2006 19, effective May 6, 2011,

1 Condition 2 regarding quarterly reports and interviews when he failed to timely provide Quarterly  
2 Reports as follows:

| 3 Reporting Period  | Due Date | Date Received | Comments      |
|---------------------|----------|---------------|---------------|
| 4 Apr-May-Jun 2012  | 7/5/12   | 8/14/12       | Late          |
| 5 Jul-Aug-Sep 2012  | 10/5/12  | 5/28/13       | Late          |
| 6 Jan-Feb-Mar 2013  | 4/5/13   | 5/28/13       | Late          |
| 7 Apr-May-Jun 2013  | 7/5/13   | 3/5/14        | Late          |
| 8 Jul-Aug-Sep 2013  | 10/5/13  | 11/26/13      | Late          |
| 9 Oct-Nov-Dec 2013  | 1/5/14   | 3/5/14        | Late          |
| 10 Jan-Feb-Mar 2014 | 4/5/14   | 5/16/14       | Late          |
| 11 Apr-May-Jun 2014 | 7/5/14   |               | Not Submitted |
| 12 Jul-Aug-Sep 2014 | 10/5/14  | 11/3/14       | Late          |

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14 14. Respondent failed to comply with the Decision and Order "*In the Matter of the*  
15 *Amended Accusation Against James C. Coghlan*," Case No. AV 2006 19, effective May 6, 2011,  
16 Condition 16 for failure to log in to Phamatech 112 times through July 27, 2015 for readiness to  
17 submit to biological fluid testing.

18 15. Respondent failed to comply with the Decision and Order "*In the Matter of the*  
19 *Amended Accusation Against James C. Coghlan*," Case No. AV 2006 19, effective May 6, 2011,  
20 Condition 16 for having positive biological fluid test results on September 1, 2015, August 27,  
21 2015, July 16, 2015, July 7, 2015, April 29, 2015, April 8, 2015, March 26, 2015, March 6, 2015,  
22 February 4, 2015, January 27, 2015, October 27, 2014, October 3, 2014, September 25, 2014,  
23 September 3, 2014, June 27, 2014, and May 23, 2014, and for failing to test when selected on  
24 June 17, 2015, May 4, 2015, May 1, 2015, March 25, 2015, and November 4, 2014,

25 16. Respondent failed to comply with the Decision and Order "*In the Matter of the*  
26 *Amended Accusation Against James C. Coghlan*," Case No. AV 2006 19, effective May 6, 2011,  
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1 Condition 17 for failing to abstain from controlled substances or provide a prescribing physician  
2 letter indicating a medically necessary medication resulted in positive biological fluid test results  
3 on February 4, 2015, January 27, 2015, October 27, 2014, October 3, 2014, September 25, 2014,  
4 September 3, 2014, June 27, 2014, and May 23, 2014.

5 17. Respondent failed to comply with the Decision and Order "*In the Matter of the*  
6 *Amended Accusation Against James C. Coghlan*," Case No. AV 2006 19, effective May 6, 2011,  
7 Condition 18 for failing to abstain from use of alcoholic beverages.

## 8 **ACCUSATION**

### 9 **FIRST CAUSE FOR DISCIPLINE**

#### 10 **(Failure to Establish a Veterinarian-Client-Patient Relationship)**

11 18. Respondent has subjected his license to disciplinary action under section 4883,  
12 subdivision (o) of the Code in that he failed to establish a veterinarian-client-patient relationship  
13 with complainant and Luna, as described in paragraphs 11-12, above, which is a violation of  
14 California Code of Regulations, title 16, section 2032.1.

### 15 **SECOND CAUSE FOR DISCIPLINE**

#### 16 **(Recordkeeping)**

17 19. Respondent has subjected his license to disciplinary action under section 4883,  
18 subdivision (o) of the Code in that he failed to prepare legible, written or computer generated  
19 records concerning Luna containing his initials, Luna's medical history, physical examination  
20 findings, diagnosis, anesthetic protocol, drugs, dosages, monitoring, or post-operative care  
21 instructions as described in paragraphs 11-12, above. Said conduct violates California Code of  
22 Regulations, title 16, section 2032.3, subdivision (a).

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1 **FIRST AMENDED PETITION TO REVOKE PROBATION**

2 **FIRST CAUSE TO REVOKE PROBATION**

3 **(Obey All Laws)**

4 20. At all times after the effective date of Respondent's probation, Condition 1 stated:

5 **Condition 1: Obey All Laws**

6 Respondent shall obey all federal and state laws and regulations substantially  
7 related to the practice of veterinary medicine.

8 21. Respondent's probation is subject to revocation because he failed to comply with  
9 Condition 1, referenced above, in that he failed to comply with the conditions of his probation.

10 **SECOND CAUSE TO REVOKE PROBATION**

11 **(Quarterly Reports and Interviews)**

12 22. At all times after the effective date of Respondent's probation, Condition 2 stated:

13 **Condition 2: Quarterly Reports And Interviews**

14 Respondent shall report quarterly to the Board or its designee, under penalty  
15 of perjury, on forms provided by the Board, stating whether there has been  
16 compliance with all terms and conditions of probation. In addition, the Board at its  
17 discretion may request additional in-person reports of the probationary terms and  
18 conditions. If the final written quarterly report is not made as directed, the period of  
19 probation shall be extended until such time as the final report is received by the  
Board. Respondent shall make available all patient records, hospital records, books,  
logs, and other documents to the Board, upon request.

20 23. Respondent's probation is subject to revocation because he failed to comply with  
21 Probation Condition 2, referenced above, for failure to timely provide Quarterly Reports as more  
22 fully described in paragraphs 13-17, above and as follows:

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| Reporting Period | Due Date | Date Received | Comments      |
|------------------|----------|---------------|---------------|
| Apr-May-Jun 2012 | 7/5/12   | 8/14/12       | Late          |
| Jul-Aug-Sep 2012 | 10/5/12  | 5/28/13       | Late          |
| Jan-Feb-Mar 2013 | 4/5/13   | 5/28/13       | Late          |
| Apr-May-Jun 2013 | 7/5/13   | 3/5/14        | Late          |
| Jul-Aug-Sep 2013 | 10/5/13  | 11/26/13      | Late          |
| Oct-Nov-Dec 2013 | 1/5/14   | 3/5/14        | Late          |
| Jan-Feb-Mar 2014 | 4/5/14   | 5/16/14       | Late          |
| Apr-May-Jun 2014 | 7/5/14   |               | Not Submitted |
| Jul-Aug-Sep 2014 | 10/5/14  | 11/3/14       | Late          |

### **THIRD CAUSE TO REVOKE PROBATION**

#### **(Submit Biological Fluid Samples)**

24. At all times after the effective date of Respondent's probation, Condition 16 stated:

#### **Condition 16: Submit Biological Fluid Samples**

Respondent shall immediately submit to biological fluid testing, at Respondent's cost, upon request by the Board or its designee. There will be no confidentiality in test results; positive test results will be immediately reported to the Board and to Respondent's current employer.

25. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 16, referenced above, for failure to log in to Phamatech 112 times through July 27, 2015, as more fully described in paragraphs 13-17, above.

26. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 16, referenced above, for having positive test results on September 1, 2015, August 27, 2015, July 16, 2015, July 7, 2015, April 29, 2015, April 8, 2015, March 26, 2015, March 6, 2015, February 4, 2015, January 27, 2015, October 27, 2014, October 3, 2014, September 25, 2014, September 3, 2014, June 27, 2014, and May 23, 2014, and for failing to test when selected on June 17, 2015, May 4, 2015, May 1, 2015, March 25, 2015, and November 4, 2014, as more fully described in paragraphs 13-17, above.

1 **FOURTH CAUSE TO REVOKE PROBATION**

2 **(Abstention from Controlled Substances)**

3 27. At all times after the effective date of Respondent's probation, Condition 17 stated:

4 **Condition 17: Abstention from Controlled Substances**

5 Respondent shall completely abstain from the personal use or possession of  
6 controlled substances, as defined in the California Uniform Controlled Substances  
7 Act, and dangerous drugs as defined in Section 4211 of the Business and  
8 Professions Code, except when lawfully prescribed by a licensed practitioner for a  
9 bonafide illness.

10 28. Respondent's probation is subject to revocation because he failed to comply with  
11 Probation Condition 17, referenced above, for failing to abstain from controlled substances or  
12 provide a prescribing physician letter indicating a medically necessary medication resulted in  
13 positive biological fluid test results on February 4, 2015, January 27, 2015, October 27, 2014,  
14 October 3, 2014, September 25, 2014, September 3, 2014, June 27, 2014, and May 23, 2014, as  
15 more fully described in paragraphs 13-17, above.

16 **FIFTH CAUSE TO REVOKE PROBATION**

17 **(Abstention from Alcohol Use)**

18 29. At all times after the effective date of Respondent's probation, Condition 18 stated:

19 **Condition 18: Abstention from Alcohol Use**

20 Respondent shall abstain completely from the use of alcoholic beverages.

21 30. Respondent's probation is subject to revocation because he failed to comply with  
22 Probation Condition 18, referenced above, for failing to abstain from alcohol use, as more fully  
23 described in paragraphs 13-17, above.

24 **PRAYER**

25 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
26 Accusation and Petition to Revoke Probation, and that following the hearing, the Veterinary  
27 Medical Board issue a decision:

28 1. Assessing a fine against James C. Coghlan not in excess of \$5,000.00 for any of the  
causes specified in Business and Professions Code section 4883.

2. Revoking the probation that was granted by the Veterinary Medical Board in Case No. AV 2006 19 and imposing the disciplinary order that was stayed thereby revoking Veterinarian License No. VET 9742 issued to James C. Coghlan;

3. Revoking or suspending Veterinarian License No. VET 9742 issued to James C. Coghlan;

4. Taking such other and further action as deemed necessary and proper.

DATED:

October 28, 2015



ANNEMARIE DEL MUGNAIO  
Executive Officer  
Veterinary Medical Board  
Department of Consumer Affairs  
State of California  
Complainant

SD2012703548  
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